



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

August 8, 2007

### **S. 462**

### **Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act**

*As ordered reported by the Committee on Indian Affairs on July 19, 2007*

#### **SUMMARY**

S. 462 would create two trust funds as part of a potential settlement to a water rights dispute between the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, the state of Nevada, and the federal government. Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 462 could cost \$69 million over the 2008-2012 period if the United States agrees to the settlement. However, the United States is not currently a party to the settlement agreement reached by other parties involved in the dispute regarding Nevada's East Fork of the Owyhee River. If the federal government does not agree to the settlement, S. 462 would have no effect on the federal budget. Enacting S. 462 would not affect direct spending or revenues.

The bill would require the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation to adopt policies governing tribal water rights. That requirement would be an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandate would be small and well below the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation). Furthermore, appropriations resulting from authorizations contained in the bill could be used to pay for any such costs.

S. 462 contains no private-sector mandates as defined in UMRA.

#### **ESTIMATED COST TO THE FEDERAL GOVERNMENT**

The estimated budgetary impact of S. 462 is shown in the following table. The costs of this legislation fall within budget function 450 (community and regional development).

	By Fiscal Year, in Millions of Dollars				
	2008	2009	2010	2011	2012
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b>					
Appropriations for Deposits to Trust Funds					
Estimated Authorization Level	13	13	14	14	15
Estimated Outlays	13	13	14	14	15
Receipts and Spending of Trust Funds					
Estimated Authorization Level	-13	-13	-14	-14	54
Estimated Outlays	-13	-13	-14	-14	54
Total Changes					
Estimated Authorization Level	0	0	0	0	69
Estimated Outlays	0	0	0	0	69

## **BASIS OF ESTIMATE**

For this estimate, CBO assumes that S. 462 will be enacted near the end of fiscal year 2007 and that the entire amounts estimated to be necessary will be appropriated for each fiscal year. Potential costs, however, hinge upon the agreement reached in the fall of 2006 by the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, the state of Nevada, and several individual water users over a water rights dispute relating to the Duck Valley Irrigation Project. Currently, the United States is not a party to this agreement. For this estimate, CBO assumes that the United States will agree to the settlement and that S. 462 would codify this potential agreement. Accordingly, CBO assumes that, by fiscal year 2012, all parties will have executed the components of the agreement as specified under the bill.

## **Shoshone-Paiute Tribes Water Rights Development and Maintenance Funds**

S. 462 would create two trust funds for the Shoshone-Paiute Tribes as part of the water rights settlement. The bill would authorize the appropriation of \$9 million a year, plus interest earnings on the unspent balance of the fund, over the 2008-2012 period for the Shoshone-Paiute Tribes Water Rights Development Fund to pay for costs to rehabilitate the Duck Valley Irrigation Project; acquire land and water rights; restore fish and wildlife habitat; develop water laws; and build sewer systems and other water-related projects. Over the same period, the bill also would authorize the appropriation of \$3 million a year, plus interest

earned on unexpended balances, for the Shoshone-Paiute Tribes Water Rights Operation and Maintenance Fund for similar activities.

In total, CBO estimates that S. 462 would authorize the appropriation of \$69 million to the new funds. Several conditions would have to be met to transfer control of the new trust funds to the tribes. The Secretary of the Interior would have to publish a statement of findings in the Federal Register indicating that all parties have executed the agreement, the Fourth Judicial District in Nevada would have to issue a judgment and final decree concerning the settlement, and the amounts authorized under the bill for fiscal years 2008 through 2012 would have to be appropriated. Because those conditions would not be met until the appropriations are made for 2012, deposits in the funds during the first four years would be considered intragovernmental and would have no net effect on the federal budget. When the conditions for final settlement have been met, control over the use of the trust funds would be transferred to the tribe and the budget would record an expenditure of an estimated \$69 million in 2012. However, if the United States does not become a party to the agreement, control over the use of the trust funds would not be transferred and the bill would have no cost in 2012 (even if the authorized amounts were appropriated each year).

Beginning in 2012, the tribes would be able to withdraw all or part of the amounts in the funds upon the approval by the Secretary of the Interior. For any portion of amounts that are not withdrawn, the tribes would be required to submit to the Secretary an expenditure plan and subsequently would file an annual report describing their spending activities.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

S. 462 would require the tribes to adopt water policies that would govern tribal water rights as detailed in the agreement. That requirement would be an intergovernmental mandate as defined in UMRA because it would place a statutory requirement on the tribes that is separate from provisions of the agreement. CBO estimates that the cost of the mandate would be small and well below the threshold established in UMRA (\$66 million in 2007, adjusted annually for inflation). Furthermore, appropriations resulting from authorizations for the development fund could be used to pay for any such costs.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 462 contains no private-sector mandates as defined in UMRA.

**ESTIMATE PREPARED BY:**

Federal Costs: Leigh Angres

Impact on State, Local, and Tribal Governments: Leo Lex

Impact on the Private Sector: Amy Petz)

**ESTIMATE APPROVED BY:**

Jeffrey Holland

Chief, Projections Unit

Budget Analysis Division